

secretary of the board at or before said time of hearing. Before making such publication the board shall collect from the applicant the cost of making such application."

SECTION 2. This Act shall take effect upon its approval.

Approved this 28th day of April, A. D. 1915.

LUCIUS E. PINKHAM,
Governor of the Territory of Hawaii.

ACT 212

AN ACT

DECLARING AND DESIGNATING A CERTAIN TRACT OF GOVERNMENT LAND AT KAIMU, DISTRICT OF PUNA, ISLAND AND COUNTY OF HAWAII, AS A PUBLIC PARK.

Be it Enacted by the Legislature of the Territory of Hawaii:

SECTION 1. The tract of land hereinafter described is hereby declared to be a public park, to be known as the "Kaimu Park," being all that certain tract of government land at Kaimu, in the District of Puna, Island and County of Hawaii, more fully described as follows, to wit:

Beginning at a Δ on a solid rock at the Southwest corner of Lot 42 of the Kaimu-Makana Homesteads, and on the boundary of the land of Makana, the coordinates of said point of beginning referred to Government Survey Trig. Station "Hakuma," being 4,633.9 feet North and 3,129.5 feet East, as shown on Government Survey Registered Map No. 1,812, and running by true azimuths:

1. 203° 55' 360.0 feet along Lots 42 and 41 of the Kaimu-Makana Homesteads to angle in stone wall;
2. 337° 35' 370.0 feet along Lot 40;
3. 213° 45' 303.0 feet along Lot 39 to corner of stone walls at the Southwest corner of Lot 38;
4. 326° 50' 250 feet, more or less, across sand beach to high water mark;
5. Thence along high water mark to a point on the boundary of the land of Makana, the direct azimuth and distance being 215° 10' 816 feet, more or less;
6. 114° 00' 300 feet, more or less, along the land of Makana to the point of beginning.

Excepting and reserving therefrom a right-of-way 30 feet wide for the Kalapana-Pahoa Road running along the makai boundaries of the said Kaimu-Makana Homestead Lots. Area, 5 10/100 Acres, more or less."

SECTION 2. This Act shall take effect upon its approval.

Approved this 28th day of April, A. D. 1915.

LUCIUS E. PINKHAM,
Governor of the Territory of Hawaii.

ACT 213

AN ACT

DECLARING AND DESIGNATING A CERTAIN TRACT OF GOVERNMENT LAND AT KALAPANA, DISTRICT OF PUNA, ISLAND AND COUNTY OF HAWAII, AS A PUBLIC PARK.

Be it Enacted by the Legislature of the Territory of Hawaii:

SECTION 1. The tract of land hereinafter described is hereby declared to be a public park to be known as the "Kalapana Park."

"All that certain tract of Government land at Kalapana, District of Puna, Island and County of Hawaii, more fully described as follows, to wit:

Beginning at the triangle cut on pahoe at the West corner of this piece, the North and South corners respectively of Lots 1 and 2, Section 1, of the Waiakolea Homesteads, and the East corner of Grant 1865:1 to Kaahili, the coordinates of said point of beginning referred to Government Survey Trig. Station "Hakuma," being 2,188.0 feet North and 1,103.0 feet East, as shown on Government Survey Registered Map No. 1,812, and running by true azimuths:

1. 226° 10' 749.4 feet along Lot 2, Section I, Waiakolea Homesteads;
2. 141° 00' 530.0 feet along Lot 2, Section I, Waiakolea Homesteads;
3. 228° 40' 134 feet, more or less, along Grant 874 to Kaiwi;

4. 232° 40' 106 feet, more or less, along Grant 874 to Kaiwi;
5. 244° 00' 122 feet, more or less, along Grant 874 to Kaiwi;
6. 259° 00' 88 feet, more or less, along Grant 874 to Kaiwi;
7. 244° 00' 200 feet, more or less;
8. 337° 00' 840 feet, more or less, along Grant 1,009:1 to Mi to high water mark;
9. Thence along high water mark, the direct azimuth and distance being 15° 00' 820 feet, more or less;
10. Thence to and along Lot 1, Section I, Waiakolea Homesteads (Grant 5,016 to S. H. Haahoe), the direct azimuth and distance being: 110° 00' 940 feet, more or less, to the point of beginning. Area 22 80/100 Acres, more or less."

SECTION 2. This Act shall take effect upon its approval.

Approved this 28th day of April, A. D. 1915.

LUCIUS E. PINKHAM,
Governor of the Territory of Hawaii.

ACT 214

AN ACT

TO AUTHORIZE THE CITY AND COUNTY OF HONOLULU TO LEASE FOR CERTAIN PURPOSES PORTIONS OF THE AREA COMPRISED WITHIN THE LIMITS OF KAPIOLANI PARK.

Be it Enacted by the Legislature of the Territory of Hawaii:

SECTION 1. The City and County of Honolulu is hereby authorized to lease for a period not to exceed fifteen (15) years, and upon such terms and conditions as it shall determine, a portion or portions of the area comprised within the limits of Kapiolani Park in said city and county for the construction and maintenance thereon of a polo field and the necessary or proper accessories for such field and for the games to be played thereon; provided, however, that said lease shall contain the condition that no structures of a permanent nature shall be erected by the lessee within the limits of said park makai of Paki Avenue.

SECTION 2. This Act shall take effect upon its approval.

Approved this 28th day of April, A. D. 1915.

LUCIUS E. PINKHAM,
Governor of the Territory of Hawaii.

ACT 215

AN ACT

RELATING TO CRIMINAL PROCEDURE IN CIRCUIT COURTS, AMENDING SECTION 3791 OF THE REVISED LAWS OF HAWAII, 1915, AND AMENDING CHAPTER 215 OF SAID REVISED LAWS, BY ADDING THERETO THIRTEEN NEW SECTIONS TO BE DESIGNATED AS SECTIONS 3791A, 3791B, 3791C, 3791D, 3791E, 3791F, 3791G, 3791H, 3791I, 3791J, 3774A, 3807A AND 3807B.

Be it Enacted by the Legislature of the Territory of Hawaii:

SECTION 1. Section 3791 of the Revised Laws of Hawaii, 1915, is hereby amended to read as follows:

"Section 3791. Defects and omissions. No indictment shall be held invalid or insufficient for want of the averment of any matter unnecessary to be proved, for any defect or omission of any matter of form only, for any mis-writing, misspelling or improper English, or the use of abbreviations, signs, symbols or foreign words locally in common use and commonly understood, for the omission of the words "as appears upon the record" or "as appears by the record" or of the words "against the peace" or of the words "against the form of the statute" or of the words "against the form of the statutes," or, provided jurisdiction of the court is shown with certainty sufficient to satisfy a person of ordinary intelligence, for stating time or place imperfectly or incorrectly.

No indictment shall be held invalid or insufficient for want of an averment that the grand jurors were impanelled, sworn or charged, for want of a proper or formal conclusion, for want of or imperfection in the addition of any defendant, or because any person mentioned in the indictment is designated by a name of office or other descriptive appellation instead of his proper name, or because the initial of any person's given name is stated instead of said given name, or for want of a statement of value or price or the amount of damage or injury in any case where the value or price or the amount of damage or injury is not of the essence of the offense.

SECTION 2. Chapter 215 of the Revised Laws of Hawaii,

1915, is hereby amended by the addition of thirteen new sections as follows:

"Section 3791A. Characterization of the act. The indictment need not allege that the offense was committed or the act done "feloniously," "lawfully," "wilfully," "knowingly," "maliciously," "with force and arms," or otherwise except where such characterization is used in the statutory definition of the offense. Where such characterization is so used the indictment may employ the words of the statute or other words substantially of the same import. In alleging the transaction the indictment may use the nominal, adjectival, verbal or adverbial form of the statutory name of the offense.

"Section 3791B. Meaning of words and phrases. The words and phrases used in an indictment are to be construed according to their usual acceptation, except words and phrases which have been defined by law which have acquired a legal signification, which words and phrases are to be construed according to their legal signification and shall be sufficient to convey such meaning.

"Section 3791C. Exceptions. No indictment for any offense created or defined by statute shall be deemed objectionable for the reason that it fails to negative any exception, excuse or proviso contained in the statute creating or defining the offense. The fact that the charge is made shall be considered as an allegation that no legal excuse for the doing of the act existed in a particular case.

"Section 3791D. Alternative allegations. In an indictment for an offense which is constituted of one or more of several acts or which may be committed by one or more of several means or with one or more of several intents or which may produce one or more of several results, two or more of such acts, means, intents or results may be charged in the alternative.

"Section 3791E. Indirect allegations. No indictment or bill of particulars is invalid or insufficient for the reason merely that it alleges indirectly and by inference instead of directly any matters, facts or circumstances connected with or constituting the offense, provided that the nature and cause of the accusation can be understood by a person of common understanding.

"Section 3791F. Repugnancy. No indictment is invalid by reason of any repugnant allegation contained therein, provided that an offense is indicated under Section 3791I.

"Section 3791G. Surplusage. Any unnecessary allegation contained in an indictment may be rejected as surplusage.

"Section 3791H. Misjoinder. No indictment shall be quashed, set aside or dismissed, nor shall any demurrer thereto be sustained for misjoinder of parties defendant or for misjoinder of offense charged; and if either defect exists the court may sever the indictment containing it into separate indictments or into separate counts as shall be proper.

"Section 3791I. Sufficiency of averments as to offense and transaction. In an indictment the offense may be charged either by name or by reference to the statute defining or making it punishable; and the transaction may be stated with so much detail of time, place and circumstances and such particulars as to the person (if any) against whom, and the thing (if any) in respect to which the offense was committed, as are necessary to identify the transaction, to bring it within the statutory definition of the offense charged, to show that the court has jurisdiction, and to give the accused reasonable notice of the facts.

Averments which so charge the offense and the transaction shall be held to be sufficient.

"Section 3791J. Form. The indictment may be substantially in the following form:

In the Circuit Court of the.....Circuit. Territory of Hawaii.Term 19... The Territory of Hawaii vs.....Defendant.

The Grand Jury of the.....Circuit of the Territory of Hawaii do present that (Here give name or description of the accused.) (Here set forth the offense and transaction according to the rules in this chapter enunciated.)

A True Bill found this.....day of..... 19...

Signed

Foreman of the Grand Jury.

Signed

(Official title of prosecuting officer.)

"Section 3774A. Interpretation. In this chapter: The term "act" or "doing of an act" includes "omission to act;" the term "the court" unless a contrary intention appears means the court before which the trial is had; the term "the offense" means the specific offense constituted by the acts or omissions of the accused as distinguished from the term "the transaction" which means the particular acts, facts and circumstances which distinguish the offense committed from other offenses of the same nature.

"Section 3807A. Libel. An indictment for libel need not

(Continued on Page Ten.)

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